



**DOWNTOWN REVIEW BOARD  
MEETING AGENDA**

**WEDNESDAY, OCTOBER 1, 2014  
8:30 A.M.**

**CITY HALL  
COUNCIL CHAMBERS  
107 NORTH NEVADA AVENUE  
COUNCIL CHAMBERS, SUITE 325  
COLORADO SPRINGS, CO 80903**

## **DOWNTOWN REVIEW BOARD MEETING PROCEDURES**

The Downtown Review Board will hold their regular meeting on **Wednesday, October 1, 2014 at 8:30 a.m** in the Council Chambers of City Hall located at 107 North Nevada Avenue, Colorado Springs, Colorado 80903.

The Consent Calendar will be acted upon as a whole unless a specific item is called up for discussion by a Board Member, a City staff member, or a citizen wishing to address the Downtown Review Board.

When an item is presented to the Downtown Review Board the following order shall be used:

- City staff presents the item with a recommendation;
- The applicant or the representative of the applicant makes a presentation;
- Supporters of the request are heard;
- Opponents of the item will be heard;
- The applicant has the right of rebuttal;
- Questions from the Board may be directed at any time to the applicant, staff or public to clarify evidence presented in the hearing.

## **APPEAL INSTRUCTIONS**

If you do not agree with a decision of the Downtown Review Board and wish to appeal that decision you must do so by filing an appeal with the City Clerk's Office (located at 30 S. Nevada Avenue, Colorado Springs, CO 80903) no later than ten (10) days after the hearing date. Accordingly any appeal relating to this Downtown Review Board meeting must be submitted to the City Clerk by 5pm on:

**Monday, October 13, 2014**

The appeal letter, along with the required \$176 fee, should address specific code and/or regulating plan requirements that were not adequately addressed by the Downtown Review Board. City Council may elect to limit discussion at the appeal hearing to the matters set forth in your appeal letter. Unless a request for postponement is made, City Council will hear the appeal at its next regular meeting occurring at least nineteen (19) days after the Downtown Review Board meeting (Zoning Code Chapter 7.5.906).

## **DOWNTOWN REVIEW BOARD MEETING AGENDA**

- 1. APPROVAL OF THE MINUTES** - for the September 3, 2014 Downtown Review Board meeting
- 2. COMMUNICATIONS**
  - Selection of the Chair and Vice Chair
- 3. CONSENT CALENDAR** - (No items)
- 4. NEW BUSINESS CALENDAR** –

### **Item No. 4**

#### **File No.: CPC CU 14-00094 (Quasi-Judicial)**

Request by Knee Bar, LLC on behalf of Lara Hammerick and Joseph Grosjean for approval of a Conditional Use to allow for a bar within the City Rock Climbing Facility located at 21 N. Nevada Avenue. The bar is intended to be an accessory to the primary use of the indoor rock climbing facility. The subject property is zoned FBZ-CEN/CU (Form Based Zone-Central Sector with a Conditional Use), consists of 0.39 acres and is located southeast of Kiowa Street and N. Nevada Avenue.

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# NEW BUSINESS CALENDAR

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## DOWNTOWN REVIEW BOARD AGENDA

ITEM NO: 4

STAFF: MICHAEL SCHULTZ

FILE NO:  
CPC CU 14-00094 – QUASI-JUDICIAL

**PROJECT:** KNEE BAR / CITY ROCK

**APPLICANT:** KNEE BAR LLC

**OWNER:** HAMMERICK FAMILY PARTNERSHIP



### **PROJECT SUMMARY:**

1. Project Description: This proposal is a request for a conditional use to allow a bar within the FBZ-CEN (Form-Based Zone – Central Sector) zone district. The bar will be part of, and located within, the front portion of the CityRock climbing gym space located at 21 N. Nevada Ave. The proposed service area that will allow alcohol sales and consumption will consist of approximately 3,100 square feet, or that front portion that is shown on the provided diagram (**FIGURE 2**). The bar area will operate in conjunction with the CityRock climbing gym; no alcohol will be allowed within the climbing gym area itself.
2. Applicant's Project Statement: (**FIGURE 1**)
3. Planning and Development Department's Recommendation: **Approve** the conditional use to allow for a bar within the FBZ-CEN zone district.

### **BACKGROUND:**

1. Site Address: 21 N. Nevada Avenue.
2. Existing Zoning/Land Use: FBZ-CEN (Form-Based Zone – Central Sector) / The site is made up of almost the entire footprint of the building with several off-street parking stalls located in the rear.
3. Surrounding Zoning/Land Use: North: FBZ-CEN / Private Parking Lot  
South: FBZ-CEN / Office Building  
East: FBZ-CEN / Civic (City Auditorium)  
West: FBZ-CEN / Civic (Metro Bus Station and Public Parking)
4. Comprehensive Plan/Designated 2020 Land Use: Regional Center
5. Annexation: Town of Colorado Springs, 1872
6. Master Plan/Designated Master Plan Land Use: Imagine Downtown Master Plan (2009) / Activity Center
7. Subdivision: Original Town Plat, City of Colorado Springs
8. Zoning Enforcement Action: None
9. Physical Characteristics: The site is flat and consists of one building (formerly a movie theatre) with some surface parking in the back of the building off of the alley.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

Forty-five (45) postcards were sent to surrounding property owners within 500 ft. of the site as well as to the Downtown Partnership and the Downtown Resident's Coalition (DRC). The site was also posted for 10 days in conformance with standard procedure for internal review notification. Because of the timing of the application and no exterior renovations planned to the property, staff agreed to send the application directly to the DRB for consideration; the poster and postcards were sent out indicating the public hearing date of October 1<sup>st</sup>.

The Downtown Partnership is supportive of the proposed bar because it "creatively uses additional space, and created greater appeal to young climber looking for a unique social experience". (**FIGURE 3**)

Staff also received comments from the DRC who are in opposition to the proposal citing the need to retain a family atmosphere and safety concerns associating a bar with a climbing facility. (**FIGURE 4**)

## **ANALYSIS OF REVIEW CRITERIA AND MAJOR ISSUES**

The proposed bar within a portion of the CityRock space will require no exterior modifications to the building; all improvements will be conducted within the front portion of the space. The CityRock climbing gym has operated at the subject location for approximately the past 5 years; the use prior was an antique retail store, the original use of the building was a movie theatre.

One of the overarching principles of the Downtown Form-Based Zone is that individual land uses are less important than the building forms that establish Downtown's character, architecture, and built environment. A healthy downtown is comfortable to pedestrians, and pedestrians are affected more by physical forms, public improvements, traffic speeds, and a consistent street-wall, than they are by the uses which exist behind closed doors.

However, there are a select number of uses which, if not properly considered, have the potential to negatively impact surrounding properties and downtown as a whole. One such use is a bar, which is defined as a business which generates more than fifty percent of gross revenue from on-site alcohol sales. While all successful urban areas have bars, the size, type, and perhaps most importantly, location of new bars was determined to deserve case-by-case review by the Downtown Review Board at a public hearing through the conditional use process. This review, including the evaluation of the conditional use review criteria, can be an important step toward ensuring that surrounding properties are not harmed and that clusters of existing bars aren't intensified, worsening problems associated with many late night urban uses.

The surrounding land uses from the subject property would entail minimal impact with the addition of an accessory bar; the property immediately to the north is used as a private parking lot, the property to the south is an attorney's office. The property immediately to the east is the City Auditorium (which also has a bar as an accessory use to the civic use of the facility). To the west, across Nevada Ave., is the downtown hub for Metro Transit; above that is a public parking facility.

Although the application is to allow a bar within the FBZ zone district, staff believes the use is more "accessory" to the principal use than it is a free-standing bar operation. The accessory use of the bar, or serving alcohol, is similar to that of the Beauty Bar, Splash, the City Auditorium and the Peak Theatre, just to name a few.

The proposed operating hours will be in conjunction with the operating hours of the CityRock climbing gym, which will be currently Monday through Friday from 10 a.m. to 8 p.m., Saturday from 10 a.m. to 8 p.m. and Sundays from 12 p.m. to 8 p.m. An existing service area that provides snacks to patrons of the climbing gym will also be available to anyone within the bar.

The Downtown Partnership continues to monitor the downtown bar scene; at one time the Partnership mitigated some of the negative aspects of downtown bars and nightclubs by holding monthly meetings with the major bar and nightclub owners and the Colorado Springs Police Department. The bar operators, collectively referring to themselves as the "Downtown Premier Partners", have taken numerous actions including increasing private security staff and implementing ID scanners that help identify and eliminate repeat offenders. Efforts appear to be paying off with fewer major incidents of crime and violence compared to just a few years ago.

The three criteria that must be considered by the Downtown Review Board in order to grant the requested conditional use permit are:

- A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.
- B. Intent Of Zoning Code: That the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.
- C. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.

After careful consideration, Staff has determined that the required criteria are met and once the technical modifications described below are addressed, the plan can be approved.

**STAFF RECOMMENDATION:**

**ITEM NO: 4 CPC CU 14-00094 – CONDITIONAL USE**

**Approve** the conditional use for a bar within the FBZ-CEN (Form-Based Zone – Central Sector) zone district located at 21 N. Nevada Avenue consisting of 3,121 square feet, based on the findings that the conditional use criteria found in Section 7.5.704 of the City Zoning Code (empowered by Section 2.5.4 of the regulating plan) are substantially met and that all other Standards found in Section 2 of the Downtown Colorado Springs Regulating Plan are also met and subject to the following technical modifications:

**Technical and Informational Modifications:**

1. Add the file number CPC CU 14-00094 to the bottom right-hand corner of the plan.
2. Provide drawing to scale, note scale and north arrow.
3. Provide a complete diagram of the interior of the space as it relates to the climbing gym.
4. Add a legend indicating project name, site address, zoning and legal description.
5. Add a legend indication building data, property size, area of bar, building frontage type, parking requirements (none) and parking provided.
6. Add any necessary site plan notes.
7. Add owner and contact information.
8. Show the public improvements around the building, including alley and the public sidewalk to the public curb.
9. Provide a vicinity map on the site plan.

LINDEN KOMINEK, P.C.  
Attorneys at Law  
PLAZA OF THE ROCKIES  
111 South Tejon Street, Suite 202, Colorado Springs, CO 80903  
Telephone: (719) 955-0078 Facsimile: (719) 578-8836

Vincent L. Linden  
vince@linden-kominek.com

September 3, 2014

**VIA HAND-DELIVERY ONLY**

Michael Schultz, AICP  
Planner II  
Community Development Department  
Land Use Review Division  
30 South Nevada Avenue, Suite 105  
Colorado Springs, CO 80901-1575

**re: FBZ - Conditional Use Permit - Knee Bar, LLC**

Dear Mr. Schultz:

Enclosed for filing please find an FBZ Form: General Information, and FBZ Conditional Use Application Form (the "Application"). The Application is filed on behalf of our client, Knee Bar, LLC (the "Applicant"). The Applicant is owned in equal membership interests by Lara Hammerick and Joseph Grosjean. Ms. Hammerick and Mr. Grosjean are married, and also own and operate City Rock, LLC., at 21 N. Nevada Ave., Colorado Springs, CO. City Rock, LLC has executed a lease agreement with the Applicant, permitting it to have non-exclusive use of a portion of City Rock's operating premises, within which the Applicant requests a conditional use to serve beer & wine. Concurrently with the filing of this Application, the Applicant will file an application for a beer & wine liquor license with the Colorado Springs Liquor & Beer Advisory Board (the "Liquor Board").

We have not conducted a formal pre-application meeting, but I have conferred on several occasions with Ryan Tefertiller, AICP, Senior Planner, regarding this matter, prior to submission of this Application.

Further, please accept this letter for purposes of the **PROJECT STATEMENT** required of applicants for a FBZ-Conditional Use.

Michael Schultz  
City of Colorado Springs - Planning Office  
September 3, 2014  
Page 2

## PROJECT STATEMENT

### DESCRIPTION:

The Applicant has contracted to lease a portion of the premises located at 21 North Nevada Ave., Colorado Springs, CO, (the "Property") for the purpose of selling beer, wine, food and other non-alcoholic beverages. The Property is operated by City Rock, LLC., which does business as CityRock, and operates a climbing gym at the Property. CityRock has conducted operations at the Property for five years. The Property is approximately 16,667 square feet, however, the Applicant is requesting permission to serve alcohol within the front portion of the Property (not within the actual portion of the property utilized for climbing). The front portion of the Property is approximately 3,121 square feet, and is depicted on **Exhibit A**, attached hereto. Alcohol sales and consumption will be restricted to the front portion of the Premises as depicted on **Exhibit A**.

As such, the Applicant seeks authorization to sell, for on-premises consumption only, beer and wine, at a portion of the Property. The Property is located within Downtown Colorado Springs' Form Based Code ("FBC"), which states that all "bars" are conditional uses therein, therefore necessitating this Application.

### REVIEW CRITERIA:

According to the FBC - Conditional Use application requirements, the following findings control permissible issuance of a conditional use within the FBC zone:

- 1. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured; and**
- 2. Intent of Zoning Code: that the conditional use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare; and**
- 3. Comprehensive Plan: That the conditional use is consistent with the Comprehensive Plan of the City.**

The Applicant believes that granting of the Conditional Use will not violate any of the three (3) considerations set forth above. CityRock's hours of operation are from 11:00 a.m to 10:00 p.m., Monday through Friday, 10:00 a.m. to 8:00 p.m on Saturdays, and from 12:00 p.m. to 8:00 p.m. on Sundays. The Applicant's hours of operation, once determined will fall within CityRock's operating hours. The Applicant has consciously chosen not to request a tavern or restaurant type license, either

Michael Schultz  
City of Colorado Springs - Planning Office  
September 3, 2014  
Page 3

of which would permit the sale and service of spirituous liquors, but is limiting its liquor license application to beer and wine. The Applicant receives a large number of requests for the sale of beer or wine from its patrons, and believes that the ability to service these requests will be accessory to the primary function of the Property – use as a climbing gym. The Applicant has also consciously chosen to restrict sale and consumption of beer and wine to the front portion of the Property, to ensure that alcohol is not permitted in the climbing gym area.

The Applicant is wholly owned by the husband and wife team of Lara Hammerick and Joseph Grosjean, who also wholly own and have successfully operated CityRock for five years at the Property. The owners are on-site, and will attend and require all employees to attend, a Colorado Responsible Vendors Act approved training program for the sale and service of alcohol.

**SUMMARY:**

Because the Applicant is not intending to operate as a “bar,” which permits sales of the full spectrum of alcohol, but rather, intends to operate the Applicant as an accessory to the primary purpose of the Property’s public use, limited to beer and wine only, within the operating hours of the climbing gym, granting of a conditional use permit will not injure the value and qualities of the surrounding neighborhood. Conversely, granting the Application is consistent with the intent and purpose of the Zoning Code, and is consistent with the Comprehensive Plan of the City, in that the conditional use will not weaken the general purpose of the Zoning Code or its regulations.

It is this law firm’s opinion that granting of this conditional use request will exemplify the well-versed mission of the Planning & Community Development Department: “[T]o enhance the quality of life and the design of the community, foster innovative planning, and promote sustainable development.” The Applicant acknowledges and understands that the neighboring residents for whom granting of this Application may be notified and given the opportunity to voice their opinion in regards to this matter, and the Applicant understands that these residents may submit statements and concerns in regards to whether the Application will negatively impact the public health, safety, and welfare of the residential properties. In this regard, it is worth note that merely granting the Application will not, per se, allow the Applicant to serve alcohol within the Property. If the Application is approved for the conditional use, the Applicant must still obtain liquor license application approval from with the Liquor Board. As part of that process, the Applicant must complete a survey, performed by a professional surveyor, to determine the “needs and desires” of the defined neighborhood (currently, a one-half square mile radius from the Building) and establish that the defined neighborhood both needs and desires the Applicant’s proposed expansion. The Applicant, additionally, will have to post its premises to inform the general public that a formal hearing will be conducted at a defined time and place before the Liquor Board to determine its application for expansion. *See, generally*, C.R.S. § 12-47-301 *et seq.* Outside and separate from the Application, the liquor licensing process serves as an additional check for the granting of a conditional use to allow the service of alcohol at the Property.

Michael Schultz  
City of Colorado Springs - Planning Office  
September 3, 2014  
Page 4

Also, even assuming successful procurement of the requested conditional use permit and approval from the Liquor Board, citizens and/or residents affected by the Applicant's operation of the Premises can request the Liquor Board to not renew the Applicant's liquor license (which must be accomplished annually) for good cause shown. If the Applicant's operation causes a negative impact, then any person or business manager/owner within the neighborhood can request that the Applicant be made to appear before the Liquor Board to explain why its license should not be curtailed, suspended, revoked, or modified.

As such, there are several "safety margins" built in to the request for approval of the Application. These "safety margins," or additional hurdles and compliance checks which the Applicant must meet subsequent to the granting of a conditional use application, serve to ensure that no undue harm will befall the residents of the neighborhood and that no purpose or intent of the *City Zoning Code* will be contradicted by the granting of the Application.

Thank you for your time, assistance, and consideration in regards to the Application. Please do not hesitate to contact me with any additional questions, concerns, or comments or requests for additional information.

Sincerely,

LINDEN KOMINEK, P.C.

*/s/ Vincent L. Linden III*

Vincent L. Linden III

Enclosure

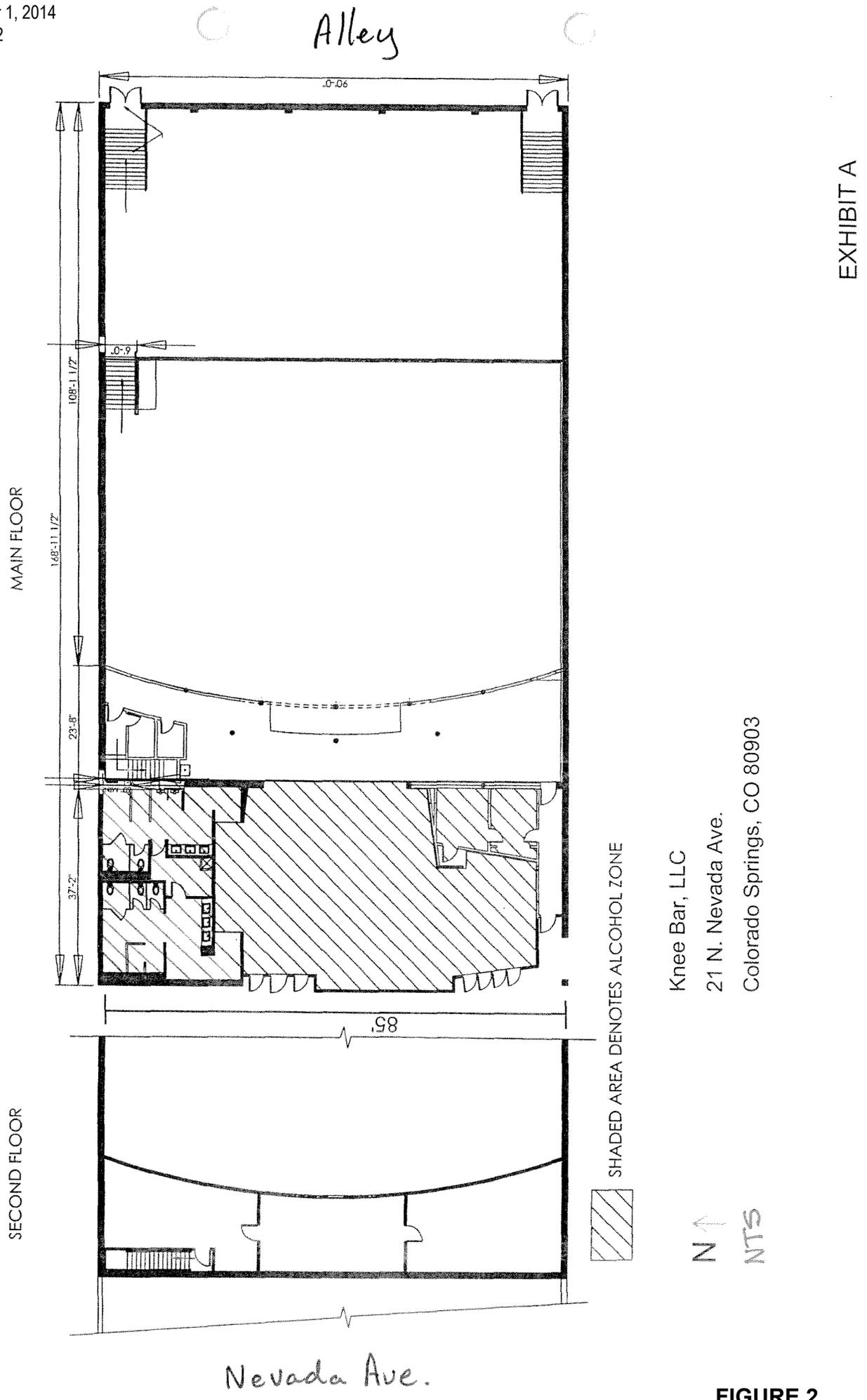


FIGURE 2



September 19, 2014

Michael Shultz, Senior Planner  
City of Colorado Springs  
Land Use Review Division  
30 S. Nevada Ave.  
Colorado Springs, CO 80903

Dear Mr. Shultz,

The purpose of this letter is to express an opinion by Downtown Partnership regarding Lara Hammerick and Joseph Grosjean's request for the property located at 212 N Nevada Ave. The request is for conditional use as a bar.

Since 2009, City Rock has operated as a popular climbing gym in the heart of downtown. City Rock brings in hundreds of climbers to its location, and contributes to our culture of health and wellness and fitness Downtown.

Knee Bar will be a great asset, attracting even more people to visit City Rock, and visit our downtown. The project creatively uses additional space, and created greater appeal to young climber looking for a unique social experience. The Downtown Partnership Development Committee supports approval of a conditional use for City Rock's newest venture.

Sincerely,

Sarah Harris  
Development Manager

**Schultz, Michael**

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**From:** Tim ODonnell <tim\_odonnell@live.com>  
**Sent:** Wednesday, September 10, 2014 2:19 PM  
**To:** Schultz, Michael  
**Cc:** Tim ODonnell business  
**Subject:** FW: Knee Bar; CPC CU 14-00094  
**Attachments:** CPC CU 14-00094-BSlp.pdf

Mike,

The Downtown Residents Coalition is opposed to this development in the strongest terms. Not only is this coupling of climbing and liquor totally irresponsible, we have few enough places downtown where families can go without adding yet another bar. In our view this is similar to having a bar at a shooting range. Common sense should dictate that this is not a good idea. Please register our objection with the DRB.

**Tim O'Donnell**  
**Downtown Residents Coalition**  
101 N Tejon #330  
Co. Springs, CO 80903  
719-442-2337  
[tim\\_odonnell@live.com](mailto:tim_odonnell@live.com)

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**From:** Matz, Sue [<mailto:SMatz@springsgov.com>]  
**Sent:** Wednesday, September 10, 2014 12:02 PM  
**To:** Bea.Romero@qwest.com; Quinn, Chris (CSU); MILES, Molly A.; Lieber, Christian; Perry, Connie; michael@pprbd.org; elaine.f.medina@usps.gov; Herbst, Gary; Shevock, Brian; Platt, Cole; Karr, Kim; Zurcher, Christoph; Austin, Roger; celestebaker@epchealth.org; Carlentine, Ronn; Williams, Vicki; R.A.HOOVER@COMCAST.NET; susan@downtowncs.com; tim\_odonnell@live.com  
**Subject:** Knee Bar; CPC CU 14-00094

Please find attached the buckslip for the Knee Bar. **Comments due by September 26, 2014.** Because you are on the Electronic Buckslip recipient list, you will no longer be receiving hard copies of the buckslip, project statement or plan(s). In order to access the site needed to view the electronic version of the application, project statement and/or plan(s), please follow these steps:

1. Go to <http://eoc.springsgov.com/ldr/>
2. Type in the file number.
3. Click "Run Query".
4. Click on the "Document" link next to the Initial Application to view the application and the project statement.
5. Click on the "Document" link next to the drawings that were submitted.

Please provide ANY and ALL comments to the planner, Mike Schultz at [mdschultz@springsgov.com](mailto:mdschultz@springsgov.com). **Do not reply to this email address.**

Sue Matz

Program, Revocable Permit and Human Service Establishment Coordinator  
City of Colorado Springs  
30 S. Nevada Ave, #105  
Colorado Springs, CO 80903  
Phone: (719) 385-5355  
Fax: (719) 385-5167